

**REMARKS**

The foregoing corrected section, submitted in response to the Notice of Non-Compliant Amendment of April 11, 2006, properly includes the text of all pending claims, including withdrawn claims. Therefore, Applicant believes their Amendment of April 4, 2006, is now in compliance with 37 CFR 1.121. No extension fee is due, since this paper is being submitted within one month of the mailing of the Notice of Non-Compliant Amendment.

Accordingly, it is believed that all pending claims are now in condition for allowance. Applicant therefore respectfully requests an early and favorable reconsideration and allowance of this application. If there are any outstanding issues which might be resolved by an interview or an Examiner's amendment, the Examiner is invited to call Applicant's representative at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

**McDERMOTT WILL & EMERY LLP**



Stephen Becker  
Registration No. 26,527

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**Date: April 18, 2006**

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04/04/2006 11:54 FAX 202 756 8087 McDermott Will Emery 0017022

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Re: Application Serial No. 09/845,066  
Our Docket No. 47984-063

Message:  
This is an Amendment (\$200.00) and a Petition for Extension of Time (\$510.00) in response to Office Action dated October 4, 2005.

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PAGE 122 \* RCVD AT 4/4/2006 5:54:34 PM [Eastern Daylight Time] \* SVR:USPTO-EFAXF-119 \* DNS:2738300 \* CSID:202 756 8087 \* DURATION (mm:ss):05:10

603



Applicant: Bruce A. KEHR, et al. Docket No. 047984-0063 Serial No. 09/845,066

Title: METHOD, SYSTEM AND COMPUTER PROGRAM PRODUCT FOR INTERNET-ENABLED, PATIENT MONITORING SYSTEM Patent No. \_\_\_\_\_

Date Sent: 4/4/2006 ☐ Hand Carried ☒ Fax ☐ Electronic ☐ Cert. of Mailing ☐ 1st Class Mail ☐ Express Mail No. \_\_\_\_\_

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☐ Other: \_\_\_\_\_

☐ Letter submitting \_\_\_\_\_ pages of drawings

☐ Req. for Approval of Drawing Amendments

☐ Req. for Oral Hearing

☐ Not. of Appeal ☐ Appeal Brief ☐ Reply Brief

☐ Rule 312 Amendment/Letter

☐ Req. for Acknowledgement of Cited Art

☐ Issue Fee

☐ Publication Fee

☐ Req. for Certificate of Correction

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☐ Other \_\_\_\_\_

☐ Small Entity ☐ Large Entity

☐ Declaration/Power of Attorney

☐ Recordation of Assignment/Security Agreement

☐ Information Disclosure Statement

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References attached

☐ Preliminary Amendment

☐ Response to Missing Parts Notice

☐ Resp. to Notice to Correct App. Papers

☐ Certified Copy of Priority Doc.

☐ Claim for Convention Priority

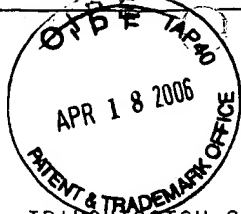
☒ Response/Amendment to Office Action of 10/04/2005

☒ Request for 03 month Extension of Time

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<b>E-Mail:</b>	sbecker@mwe.com	<b>Direct Fax:</b>	202.756.8087
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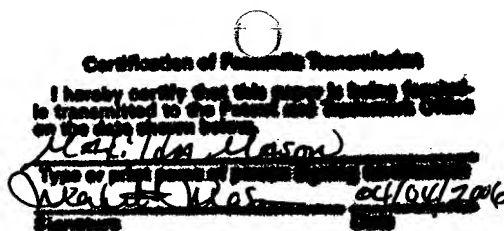
**Re:** Application Serial No. 09/845,0666  
 Our Docket No. 47984-063

### Message:

This is an Amendment (\$200.00) and a Petition for Extension of Time (\$510.00) in response to Office Action dated October 4, 2005.

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<b>E-Mail:</b>	sbecker@mwe.com	<b>Direct Fax:</b>	202.756.8087
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<b>Re:</b>	<b>Application Serial No. 09/845,0666</b> Our Docket No. 47984-063		

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Docket No.: 047984-0063



PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Bruce A. KEHR, et al.

Application No.: 09/845,066

Filed: May 07, 2001

Customer Number: 20277

Confirmation Number: 9510

Group Art Unit: 3626

Examiner: Kim T. Bui

For: METHOD, SYSTEM AND COMPUTER PROGRAM PRODUCT FOR INTERNET-ENABLED, PATIENT MONITORING SYSTEM

Mail Stop Amendment

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

Dear Sir:

Transmitted herewith is an Amendment in the above-identified application.

☐  
☐  
☒

No additional fee is required.

Applicant is entitled to small entity status under 37 CFR 1.27

Also attached: Petition For Extension of Time

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*Matilda Mason* 04/04/2006  
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The fee has been calculated as shown below:

	NO. OF CLAIMS	HIGHEST PREVIOUSLY PAID FOR	EXTRA CLAIMS	RATE	FEE
Total Claims	45	37	8	\$25.00 =	\$200.00
Independent Claims	9	19	0	\$100.00 =	\$0.00
Multiple dependent claims newly presented					\$0.00
Fee for extension of time					\$510.00
					\$0.00
Total of Above Calculations					\$710.00



Please charge my Deposit Account No. 500417 in the amount of \$710.00. An additional copy of this transmittal sheet is submitted herewith.



The Commissioner is hereby authorized to charge payment of any fees associated with this communication or credit any overpayment, to Deposit Account No. 500417, including any filing fees under 37 CFR 1.16 for presentation of extra claims and any patent application processing fees under 37 CFR 1.17.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

*Stephen A. Becker*  
Stephen A. Becker

Registration No. 26,527

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Date: April 4, 2006

Please recognize our Customer No. 20277 as our correspondence address.



Docket No.: 047984-0063

**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of : Customer Number: 20277  
Bruce A. KEHR, et al. : Confirmation Number: 9510  
Application No.: 09/845,066 : Group Art Unit: 3626  
Filed: May 07, 2001 : Examiner: Kim T. Bui

For: METHOD, SYSTEM AND COMPUTER PROGRAM PRODUCT FOR INTERNET-  
ENABLED, PATIENT MONITORING SYSTEM

**PETITION FOR EXTENSION OF TIME**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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William H. Mason 04/04/2006  
Signature Date

It is respectfully requested that the time for response to the Office Action dated October 4, 2005, now due to expire January 4, 2006, be extended for three month(s) and set to expire on April 4, 2006.

Please charge the extension fee of \$510.00 to Deposit Account No. 500417. Please charge any additional fees or credit any overpayment to Deposit Account No. 500417.

Respectfully submitted,

McDERMOTT WILL & EMERY LLP

Stephen A. Becker  
Stephen A. Becker  
Registration No. 26,527

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**Date: April 4, 2006**

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Docket No.: 047984-0063



**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of	:	Customer Number: 20277
Bruce A. KEHR, et al.	:	Confirmation Number: 9510
Application No.: 09/845,066	:	Group Art Unit: 3626
Filed: May 7, 2001	:	Examiner: Bui, Kim T.
For: METHOD AND SYSTEM FOR DATA MINING	:	

**Amendment**

Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

In response to the Office Action, dated October 4, 2005, please amend the above-identified application as follows:



**AMENDMENTS TO THE SPECIFICATION:**

Please replace the Summary of the specification with the following:

**Summary**

Method and system for automatically customizing medical protocols for one or more patients and medication delivery are disclosed. Data relating to one or more patients are received. Such received data are used to automatically customize medical protocols to derive customized medical protocols. The derived customized medical protocols and/or information associated therewith are transmitted to one or more medical monitoring devices associated with the patients. Each medical monitoring device is used to administer medical treatment of and/or dispensing medication to an associated patient in accordance with a medical protocol customized for the patient.

**AMENDMENTS TO THE ABSTRACT:**

Please replace the Abstract with the following:

Abstract

Method and system for automatically customizing medical protocols for one or more patients. Data relating to one or more patients are received. Such received data are used to automatically customize medical protocols to derive customized medical protocols. The derived customized medical protocols and/or information associated therewith are transmitted to one or more medical monitoring devices associated with the patients.

**AMENDMENTS TO THE CLAIMS:**

Please cancel claims 1-19, 36, and 37 without prejudice or disclaimer.

Claims 20-35 have been withdrawn from consideration.

Please add the following new claims.

38. (New) A method for automatically customizing medical protocols, comprising the steps of:

receiving data relating to one or more patients;

customizing one or more medical protocols based on the received data to derive one or more customized medical protocols;

transmitting the one or more customized medical protocols and/or information associated therewith to one or more medical monitoring devices associated with the one or more patients.

39. (New) The method of claim 38, wherein the one or more medical protocols include at least one of:

a medical treatment plan;

a medical monitoring schedule;

a description of one or more events associated with the medical monitoring schedule; and

one or more medical instructions.

40. (New) The method of claim 38, wherein the data relating to a patient is received from a medical monitoring device associated with the patient, the data including at least one of:

a response to a medical questionnaire;

information related to a medical symptom;  
information related to a monitored event and/or condition associated with the patient;  
information related to a medical reaction to a medical treatment; and  
information related to a physical condition of the patient.

41. (New) The method of claim 38, wherein the information related to a customized medical protocol comprises at least one of:

one or more medical questionnaires;  
one or more messages; and  
one or more instructions related to medical treatment.

42. (New) The method of claim 38, wherein the information related to a customized medical protocol is converted from the customized medical protocol.

43. (New) The method of claim 42, wherein the information related to a customized medical protocol is converted by a corresponding medical monitoring device.

44. (New) The method of claim 42, wherein the information related to a customized medical protocol is converted by a device located remotely from a corresponding medical monitoring device that receives the information.

45. (New) The method of claim 38, wherein the one or more patients have at least one common characteristic determined based on the data received from the corresponding one or more medical monitoring devices.

46. (New) The method of claim 45, wherein the common characteristic relates at least one of:

- demographics;
- a physical condition;
- a mental condition;
- a disease and/or stage thereof;
- a medical condition;
- a reaction to a medical treatment; and
- a clinical trial associated with a drug.

47. (New) The method of claim 38, wherein each of the medical monitoring devices is associated with a corresponding patient and is used to monitor the corresponding patient based on a medical protocol.

48. (New) The method of claim 47, wherein the medical monitoring device associated with a corresponding patient is configured for performing, based on a medical protocol, at least one of:

- administering a medication intake schedule;
- dispensing a medication following a plan;

gathering information in accordance with a monitoring schedule;  
generating an alert based on information gathered;  
posing a questionnaire and gathering a response thereof;  
providing an instruction;  
monitoring an event and/or a condition;  
converting a medical protocol into a set of events;  
converting a medical protocol into a set of questionnaires;  
transmitting information;  
receiving a message; and  
receiving a medical protocol.

49. (New) The method of claim 38, wherein the step of customizing comprises:  
customizing a medical protocol related to a patient based on data received from a medical  
monitoring device associated with the patient;  
determining one or more characteristics of the patient;  
identifying one or more different patients who possess the one or more characteristics;  
and  
customizing one or more medical protocols related to the one or more different patients.

50. (New) A method for automatically delivering medication, comprising the steps  
of:  
monitoring data relating to a patient using a sensor attached to or implanted in a patient;

generating an electrical signal from the sensor relating to delivering a medication to the patient in accordance with an accessible medical protocol associated with the patient; and dispensing, by a medical device, a dose of the medication automatically in response to the electrical signal.

51. (New) The method of claim 50, wherein the signal includes an indication of the dose and a time at which the medication is to be dispensed.

52. (New) The method of claim 50, wherein the signal includes an indication of an event, upon whose occurrence the medication is to be dispensed.

53. (New) The method of claim 52, wherein the occurrence of the event is reported and/or monitored by a medical monitoring device associated with the patient.

54. (New) The method of claim 50, wherein the signal is supplied by a medical monitoring device associated with the patient.

55. (New) The method of claim 50, wherein the medical protocol is stored on the medical monitoring device and is used in administering the medical treatment of the patient.

56. (New) The method of claim 55, wherein the medical protocol is customized for one or more patients, including the patient.

57. (New) The method of claim 56, wherein the customization of the medical protocol is performed based on data received from one or more medical monitoring devices associated with the one or more patients.

58. (New) The method of claim 50, wherein the step of dispensing is performed by one of a device implanted in the patient, a device external to the patient, and a combination thereof.

59. (New) A method for medical monitoring, comprising the steps of:  
receiving a signal indicating an occurrence of an event relating to a patient;  
automatically customizing a medical protocol associated with the patient in response to the occurrence of the event to generate a dynamically customized medical protocol for the patient;  
automatically administering a procedure determined based on the dynamically customized medical protocol for the patient.

60. (New) The method of claim 59, wherein the event is scheduled to be monitored based on the medical protocol associated with the patient.

61. (New) The method of claim 59, wherein the event includes at least one of:  
a physical event;  
a mental event;  
a psychological event; and



an informational event.

62. (New) The method of claim 59, wherein the occurrence of the event is detected by a monitoring device.

63. (New) The method of claim 62, wherein the monitoring device is one of an implanted device internal to the patient and an external device.

64. (New) The method of claim 59, wherein the occurrence of the event is reported by the patient.

65. (New) The method of claim 64, wherein the patient reports the occurrence of the event as a response to a questionnaire posted by a medical monitoring device, acting in accordance with the medical protocol associated with the patient.

66. (New) The method of claim 65, wherein the questionnaire is posted by the medical monitoring device at a time determined based on the medical protocol.

67. (New) The method of claim 59, wherein the medical protocol is customized for one or more patients, including the patient.

68. (New) The method of claim 59, wherein the step of automatically administering a procedure is performed by a medical monitoring device.

69. (New) The method of claim 68, wherein the procedure includes:

generating a warning signal; and  
sending the warning signal to a remote location.

70. (New) The method of claim 69, wherein the warning signal includes a description of a medical state regarding the patient assessed in connection with the occurrence of the event.

71. (New) The method of claim 68, wherein the administering the procedure includes:

obtaining a medical treatment plan generated based on a medical state regarding the patient assessed in connection with the occurrence of the event;  
implementing the medical remedial action plan.

72. (New) The method of claim 71, wherein the medical treatment plan is generated by the medical monitoring device and/or received from a remote location.

73. (New) The method of claim 71, wherein the medical treatment plan includes at least one of:

dispensing a medication based on a scheduled time and/or under a certain condition;  
providing instructions; and  
monitoring one or more additional events based on a certain schedule.

74. (New) A machine-implemented method for automatically customizing medical protocols, comprising the steps of:

receiving data from a medical monitoring device associated with a patient;

identifying one or more other patients who have characteristics common to the patient;

retrieving information associated with the one or more other patients;

customizing medical protocols associated with the patient and the one or more other patients based on the received data and the retrieved information to derive customized medical protocols for the patient and the one or more other patients;

transmitting the customized medical protocols and/or information associated therewith to medical monitoring devices associated with the patient and the one or more other patients.

75. (New) A system for customizing medical protocol, comprising:

receiving means configured for receiving data relating to one or more patients;

customizing means configured for automatically customizing one or more medical protocols based on the received data to derive one or more customized medical protocols; and

transmission means configured for transmitting the one or more customized medical protocols and/or information associated therewith to one or more medical monitoring devices associated with the one or more patients.

76. (New) An apparatus for automatically delivering medication, comprising:

monitoring means configured for monitoring data relating to a patient from a sensor attached or implanted in the patient;

generating means configured for generating an electrical signal for delivering a medication to the patient in accordance with an accessible medical protocol for the patient; and

dispensing means configured for dispensing automatically a dose of the medication in response to the electrical signal.

77. (New) The apparatus of claim 76, further comprising a control means configured for monitoring the dose and a time at which the medication is to be dispensed according to the medical protocol.

78. (New) The apparatus of claim 76, further comprising detecting means for detecting an occurrence of an event upon which the medication is to be dispensed according to the medical protocol.

79. (New) An apparatus for medical monitoring, comprising:  
receiving means configured for receiving a signal indicating an occurrence of an event relating to a patient;

customizing means configured for automatically customizing a medical protocol associated with the patient in response to the occurrence of the event to generate a dynamically customized medical protocol for the patient; and

administering means configured for administering a procedure determined based on the dynamically customized medical protocol for the patient.

80. (New) A system for automatically customizing medical protocols, comprising:

receiving means configured for receiving data from a medical monitoring device associated with a patient;

identifying means configured for identifying one or more other patients who have characteristics common to the patient;

retrieving means configured for retrieving information associated with the one or more other patients;

customizing means configured for customizing medical protocols associated with the patient and the one or more other patients based on the received data and the retrieved information to derive customized medical protocols for the patient and the one or more other patients; and

transmitting means configured for transmitting the customized medical protocols and/or information associated therewith to medical monitoring devices associated with the patient and the one or more other patients.

81. (New) A method for customizing a medical protocol of a patient, comprising the step of:

implementing one or more medical monitoring devices to:

provide medical questionnaires to one or more patients,

select a specific questionnaire to provide to the patient based on one or more shared characteristics of the patients,

receive from the patient answers to one or more questions from the questionnaire,

and

based upon the answers to the one or more of the questions by an individual patient, trigger an event conveying information to the individual patient.

82. (New) The method of claim 81, wherein the event includes one or more of:

- providing a new question for the patient to answer;
- providing new information to the patient;
- provide new medical advice to the patient;
- providing a medication to the patient; and
- providing a recommendation to the patient to carry out one or more behaviors related to managing their health.

## REMARKS

By this amendment, claims 1-19, 36, and 37 have been canceled without prejudice or disclaimer. New claims 38-82 have been added. The newly added claims 38-82 are fully supported by the specification as originally filed. Claims 38-82 are presently pending in this application. Reconsideration of this application for allowance of all pending claims are hereby respectfully requested in view of the amendments to the claims and the following remarks.

### Objections

In Section 2 of the Office Action, dated October 4, 2005, claim 36 has been objected to as having an improper form because the claim depends on the canceled claim 35. By this amendment, claim 36 has been canceled. Therefore, the objection of claim 36 is presently moot.

In Section 4 of the Office Action, the Examiner objected to the abstract of the disclosure based on informality. By this Response, the Applicants have amended the Abstract in compliance with the MPEP §608.01(b). Therefore, the Applicants have overcome the objection of Abstract based on informality. The Applicants respectfully request that objection of the Abstract based on informality be withdrawn.

### Rejection Under 35 U.S.C. § 101

In Section 6 of the Office Action, claims 1 and 3-19 have been rejected under 35 U.S.C. §101 with an assertion that the claimed invention is directed to non-statutory subject matter. By this Response, claims 1 and 3-19 have been canceled. Thus, the Examiner's rejection of claims 1 and 3-19 is presently moot.

Regarding the newly added claims, claims 38-74 and 81-82 are directed to machine-implemented automatic processes for customizing medical protocols for medical monitoring and

delivering medication. The new claims 75-80 are directed to systems that are configured to perform the claimed processes. The Applicants respectfully point out that the technological art ground is no longer a legal ground for rejection. What is required is a real world practical application. An inventor has to show a useful, concrete, and tangible result. See *Ex Parte Lundgren* (BPA1 2005). The new claims 38-82 recite a practical application of the claimed processes and apparatuses in healthcare, where the recited application facilitates improved medical treatment, monitoring, and assistance to patients. The recited processes and apparatuses produce useful, concrete and tangible results, such as automatically customizing a medical treatment for a patient based on information related to the patient, automatically dispensing a medication to a patient according to such a customized medical treatment plan, or automatically administering a medical procedure based on an event occurred to the patient. Therefore, the new claims 38-80 are directed to statutorily permissible subject matter.

**Rejection Under 35 U.S.C. § 112**

In Section 8 of the Office Action, claims 3, 5-8, 10, 13-19, and 37 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Since claims 3, 5-8, 10-19, and 37 have been canceled by this Amendment, the rejection of claims 3, 5-8, 10, 13-19, and 37 is moot.

**Rejection Under 35 U.S.C. § 102(e)**

In Section 10 of the Office Action, claims 1, 3, 4, 6-10, 12, and 37 have been rejected under 35 U.S.C. §102(e) as being anticipated by Linder et al. (U.S. Patent No. 6,681,003). Since



claims 1, 3, 4, 6-10, 12, and 37 have been canceled by this Amendment, the rejection of claims 1, 3, 4, 6-10, 12, and 37 is moot.

In addition, the Applicants respectfully point out that the present specification has incorporated PCT patent application WO98/38909 by reference (see page 11, paragraph 134), which has a priority date of March 7, 1997. The invention as claimed in the newly added claims 38-82 are fully supported by the present specification as originally filed and by the incorporated PCT patent application.

**Rejection Under 35 U.S.C. § 103(a)**

In Section 13 of the Office Action, claims 2 and 5 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Linder et al. in view of Iliff (U.S. Patent Publication No. 2003/0153819 A1). Since claims 2 and 5 have been canceled by this Amendment, the rejection of claims 2 and 5 is moot.

In Section 14 of the Office Action, claim 11 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Linder et al. in view of Xue et al. (U.S. Patent No. 6,463,320). Since claim 11 has been canceled by this Amendment, the rejection of claims 2 and 5 is moot.

In Section 15 of the Office Action, claim 19 has been rejected under 35 U.S.C. §103(a) as being unpatentable over Surwit et al. (U.S. Patent No. 6,589,169) in view of Xue et al. Since claim 19 has been canceled by this Amendment, the rejection of claims 2 and 5 is moot.

The Applicants respectfully point out that the present specification has incorporated PCT patent application WO98/38909 by reference (see page 11, paragraph 134), which has a priority date of March 7, 1997. The invention as claimed in the newly added claims 38-82 are fully

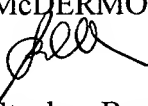
supported by the present specification as originally filed and by the incorporated PCT patent application.

Accordingly, it is believed that all pending claims are now in condition for allowance. Applicant therefore respectfully requests an early and favorable reconsideration and allowance of this application. If there are any outstanding issues which might be resolved by an interview or an Examiner's amendment, the Examiner is invited to call Applicant's representative at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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